

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

VAZQUEZ COMMERCIAL
CONTRACTING, LLC

Plaintiff

vs.

Case No. 20-cv-0486-DGK

ZIESON CONSTRUCTION
COMPANY, LLC; SIMCON CORP.;
ONSITE CONSTRUCTION GROUP,
LLC; TORGESON ELECTRIC
COMPANY, INC.; MCPHERSON
CONTRACTORS, LLC; MLT
INVESTMENTS, LLC; METS, LLC;
HAAVIG & ASSOCIATES, L.L.C.;
ZURICH AMERICAN INSURANCE
COMPANY; CHPB Sub 1, LLC F/K/A
TRUSS, LLC; MATTHEW
TORGESON; MICHAEL PATRICK
DINGLE; MATTHEW MCPHERSON;
STEPHON ZIEGLER; RUSTIN
SIMON; JACOB BAUCOM; MONICA
HAAVIG.

Defendants.

**DEFENDANT ZURICH AMERICAN INSURANCE COMPANY'S
MOTION TO DISMISS PETITION FOR DAMAGES**

ORAL ARGUMENT REQUESTED

Pursuant to Federal Rules of Civil Procedure 8(a), 9(b), and 12(b)(6), Defendant Zurich American Insurance Company ("Zurich") hereby moves to dismiss all claims against Zurich, with prejudice. Plaintiff's Petition for Damages alleges five claims against Zurich: (1) violation of the federal Racketeer Influenced and Corrupt Organizations Act ("RICO") § 1962(c) (Count I), (2) negligence (Count IV), (3) negligent misrepresentation (Count VI), (4) tortious

interference (Count VIII), and (5) civil conspiracy (Count IX). As explained in Zurich's Suggestions in Support of this Motion to Dismiss, each of these claims fail as a matter of law to state any plausible claim for relief.

Zurich respectfully requests oral argument in order to address any questions the Court may have regarding its entitlement to the requested relief.

Dated: August 14, 2020

Respectfully submitted,

s/ Debra Bogo-Ernst

Debra Bogo-Ernst (pro hac vice)

DErnst@mayerbrown.com

Samantha C. Booth (pro hac vice)

sbooth@mayerbrown.com

MAYER BROWN LLP

71 South Wacker Drive

Chicago, IL 60606-4637

Telephone: (312) 782-0600

Facsimile: (312) 701-7711

Carol Z. Smith

csmith@dysarttaylor.com

Matthew W. Geary

mgeary@dysarttaylor.com

4420 Madison Avenue Suite 200

Kansas City, MO 64111

Telephone: (816) 931-2700

Facsimile: (816) 931-7377

*Attorneys for Defendant Zurich American Insurance
Company*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 14, 2020, a copy of the foregoing Motion to Dismiss was electronically filed with the Court using the Court's ECF system and copies were sent to all attorneys of record as follows:

Mark E. Parrish
Joshua A. Sanders
Erica Fumagalli
Boyd Kenter Thomas & Parrish, LLC
P O Box 1099
221 West Lexington Ave. Suite 200
Independence, MO 64051
mparrish@bktplaw.com
jsanders@bktplaw.com
efumagalli@bktplaw.com
Attorneys for Plaintiff Vazquez Commercial Contracting, LLC

Courtney Steelman
Husch Blackwell LLP
4801 Main Street Suite 1000
Kansas City, MO 64112-2551
Courtney.steelman@huschblackwell.com
Attorneys for Simcon Corp. and Rustin Simon

Jean Paul Bradshaw II
Jennifer Hannah
Taryn A. Nash
Lathrop GPM LLP
2345 Grand Boulevard Suite 2200
Kansas City, MO 64108-2618
816-292-2000
jennifer.hannah@lathropgpm.com
jeanpaul.bradshaw@lathropgpm.com
taryn.nash@lathropgpm.com
Attorneys for Defendant Torgeson Electric Company

Mary Anne Mellow
Philip C. Graham
Sandberg Phoenix & von Gontard P.C.
600 Washington Ave. 15th Floor
St. Louis, MO 63101-1313
mmellow@sandbergphoenix.com
pgraham@sandbergphoenix.com
Attorneys for Defendant CHPB Sub 1, LLC,
f/k/a Truss, LLC

Katrina L. Smeltzer
Sandberg Phoenix & von Gontard P.C.
4600 Madison Avenue Suite 1000
Kansas City, MO 64112
ksmeltzer@sandbergphoenix.com
Attorneys for Defendant CHPB Sub 1, LLC,
f/k/a Truss, LLC

Thomas M. Bradshaw
Van Osdol, P.C.
1000 Walnut Street Suite 1500
Kansas City, MO 64106
tbradshaw@vanosdolkc.com
Attorneys for Defendant Michel Patrick Dingle

Melanie Morgan
Morgan Pilate LLC
926 Cherry Street
Kansas City, MO 64106
mmorgan@morganpilate.com
Attorneys for Defendant Michel Patrick Dingle

/s/ Carol Z. Smith
Carol Z. Smith